

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

UNITED STATES OF AMERICA,

VS.

CRIMINAL ACTION NO. 3:07CR80-P-A

KENNETH BUTZ,

DEFENDANT.

ORDER CONTINUING TRIAL

This matter comes before the court upon Defendant's Motion for Continuance [15-1]. After due consideration of the motion, the court finds as follows, to-wit:

Trial is currently set for July 30, 2007. Defense counsel requests a continuance to allow additional time to discuss possible plea negotiations with the Government. The Government has no objection to the continuance.

Defense counsel also states that the defendant waives the time period covered by this continuance. However, one cannot waive one's rights under the Speedy Trial Act, 18 U.S.C. § 3161. *Zedner v. United States*, 126 S.Ct. 1976, 1985 (2006) ("Conspicuously, § 3161 has no provision excluding periods of delay during which a defendant waives the application of the Act, and it is apparent from the terms of the Act that this omission was a considered one.").

In any event, the above circumstances enable the Court to exclude, pursuant to 18 U.S.C. section 3161(h)(8)(A), the period of delay from July 30, 2007 until the new trial date to be set in this matter. The time is excludable under subsection (h)(8)(A) because, given the circumstances described above, a continuance is necessary to afford the defendant's counsel more time to adequately prepare for his client's defense. As such, the ends of justice served by the granting of this

continuance outweigh the best interests of the public and the defendant in a speedy trial.

IT IS THEREFORE ORDERED AND ADJUDGED that:

(1) Defendant's Motion for Continuance [15-1] is **GRANTED**;

(2) Trial of this matter is continued until Monday, September 10, 2007 at 9:00 a.m. in the United States Courthouse in Greenville, Mississippi;

(3) The delay from July 30, 2007 to September 10, 2007 is excluded from Speedy Trial Act considerations as set out above;

(4) The deadline for filing pretrial motions is August 20, 2007; and

(5) The deadline for submitting a plea agreement is August 27, 2007.

SO ORDERED this the 17th day of July, A.D., 2007.

/s/ W. Allen Pepper, Jr.

W. ALLEN PEPPER, JR.

UNITED STATES DISTRICT JUDGE